

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of) Group Art Unit: 1644
Michael Grunstein et al.) Examiner: M.E. Szperka
) Confirmation No. 9590
Serial No. 10/645,913)
)
Filed: August 21, 2003)
)
For: COMPOSITIONS AND)
METHODS FOR THE)
TREATMENT OF ASTHMA)

**TERMINAL DISCLAIMER RESPONSIVE TO
OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION**

The above-identified patent application (hereinafter "the '913 application"), is owned by The Children's Hospital of Philadelphia (hereinafter "Assignee"), as evidenced by an assignment recorded with the U.S. Patent and Trademark Office on May 14, 1999 at reel/frame no. 009961/0415.

Assignee, by its undersigned agent, who is agent of record in the '913 application, hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the '913 application which would extend beyond the expiration date of the full statutory term, as defined in 35 U.S.C. §§ 154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Patent No. 6,630,140, issued October 7, 2003 on U.S. Application No. 09/261,104 of which Assignee is the owner of all right, title and interest.

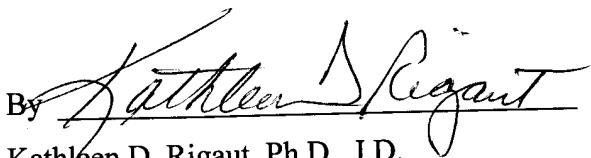
Assignee, by its undersigned agent, hereby agrees that any patent so granted on the '913 application shall be enforceable only for and during such period that the legal title to such patent shall be the same as the legal title to said U.S. Patent No. 6,630,140, this agreement to run with any patent granted on the '913 application and to be binding upon the grantee, its successors or assigns.

In making the foregoing disclaimer, Assignee does not disclaim the terminal part of any patent granted on the '013 application that would extend to the

expiration date of the full statutory term as defined in 35 U.S.C. §§ 154 to 156 and 173 of U.S. Patent No. 6,630,140, as presently shortened by any terminal disclaimer filed prior to patent grant, in the event that U.S. Patent No. 6,630,140: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. §1.321, has all claims cancelled by a reexamination certificate, is reissued or is in any manner terminated prior to expiration of its full statutory term as presently or subsequently shortened by any terminal disclaimer, as the case may be, except for the separation of legal title stated above.

The Commissioner is hereby authorized to charge the appropriate fee to Deposit Account No. 04-1406.

Respectfully submitted,
DANN, DORFMAN, HERRELL AND SKILLMAN
A Professional Corporation

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